

HOUSE No. 1878

The Commonwealth of Massachusetts

PRESENTED BY:

Steven M. Walsh

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to improving quality of early education and care through center child care providers.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Steven M. Walsh	11th Essex
Pam Richardson	6th Middlesex
Jennifer M. Callahan	18th Worcester

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT RELATIVE TO IMPROVING QUALITY OF EARLY EDUCATION AND CARE THROUGH CENTER CHILD CARE PROVIDERS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to establish forthwith a system for improving the quality of center based child care services in the Commonwealth and to provide collective bargaining rights for providers of such services, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Chapter 15D of the General Laws is hereby amended by adding the following sections:

SECTION 17

Subject to appropriations and notwithstanding the provisions of any general or special law to the contrary, it is hereby declared to be the policy of the Commonwealth to assure quality early education and care for children by center child care providers as defined in this chapter.

It shall also be the intent of the General Court that child care center providers and the Commonwealth work jointly to establish a quality early education and care program that serves eligible low income families through providers who have the requisite skills and training.

SECTION 18. COLLECTIVE BARGAINING RIGHTS FOR CHILD CARE PROVIDERS

In order to address these problems, child care center workers and directors are to be given the opportunity to work collectively to improve standards in their profession and to expand opportunities for educational advancement to ensure continuous quality improvement in the delivery of early learning services by collectively bargaining with the Commonwealth over

its role in improving the quality of child care and subsidizing child care for the Commonwealth's families.

This new bargaining relationship does not intrude in any manner upon relationships governed by federal labor relations law. In becoming members of an organization that represents them in their dealings with the state, child care workers and directors do not forfeit their rights under federal law.

SECTION 2. Chapter 15D of the General Laws is hereby amended by adding the following section:

SECTION 19. DEFINITIONS RELATING TO COLLECTIVE BARGAINING RIGHTS OF CHILD CARE SERVICES PROVIDERS

In addition to the definitions defined in Section 1A of this Chapter for purposes of sections 17 – 21, inclusive, the following words shall have the following meaning:

“Division,”- the Division of labor relations established by section 9O of chapter 23.

“Employee Organization” – an employee organization as defined in section one of chapter 150E.

“Child care center” and “school age child care program” shall be as defined in Section 1A of this Chapter 15D, which is licensed by the Commonwealth and holds a contract with the Department for the provision of subsidized child care services.

“Provider” – child care center and school age child care program directors and workers.

“Services” – child care services provided for less than 24 hours in a day in any child care center or school age child care program as defined in this section.

SECTION 20. PROVIDERS' RIGHT TO SELECT A REPRESENTATIVE FOR AND ENGAGE IN COLLECTIVE BARGAINING.

(a) Providers shall be considered public employees, as defined by and solely for the purposes of chapter 150E. Said chapter 150E shall apply to providers except to the extent that chapter 150E is inconsistent with this section, in which case this section shall control. Providers shall have the right to form, join and participate in the activities of employee organizations of their own choosing for the purpose of representation and collective bargaining exercised in accordance with the rights granted to public employees under chapter 150E. In addition, providers shall be treated as state employees solely for the purposes of this section.

(b) Solely for the purposes of collective bargaining and as expressly limited under subsections (a) through (f) of Section 21, the Commonwealth of Massachusetts acting through the Commissioner of the Department of Early Education and Care is

the public employer, as defined in section one of chapter 150E, of providers and is authorized to agree to terms and conditions of collective bargaining agreements on behalf of the Commonwealth.

- (c) The only appropriate collective bargaining unit for providers shall consist of a statewide unit of all providers in the Commonwealth who are on the most current list provided by the Department of Early Education and Care, regardless of the number of hours of care such providers have worked.

SECTION 3. Add the following new section to Chapter 15D:

SECTION 21.

- (a) Every child care center and, school age child care program, as defined in Chapter 15 Section 1A, shall provide to the Department of Early Education and Care a list of the names, home addresses, phone numbers, workplace and job title of all current employees and directors annually by January 30, except that initially such lists shall be provided within thirty days of the effective date of this section.
- (b) The Department of Early Education and Care shall, upon request, provide to a labor organization a list of all current providers, including workers and directors in the unit that the organization seeks to organize. Such list shall contain information including name, home addresses, telephone number, workplace and job title with regard to such employees, as is necessary for the purposes of this act.
- (c) Notwithstanding section 6 of chapter 150E, the scope of collective bargaining for child care providers under this section shall be limited solely to: (i) professional development and training; (ii) minimum standards for worker compensation in subsidized programs, including career and wage ladders, and health and welfare benefits; (iii) economic compensation to child care centers and school age child care programs, such as manner and rate of subsidy and reimbursement, including tiered reimbursements; (iv) other economic matters; and (v) grievance procedures related to i through iv.
- (d) In lieu of the deductions authorized under subsections 17 A and G of Chapter 180, and agency service fee provisions authorized under Chapter 150E, the Commonwealth and the exclusive representative of the bargaining unit of providers as defined in Section 21 shall agree to a representation fee to be paid to the exclusive representative for the costs of representation. The Commonwealth and its agents or contractors who administer or disburse payments to child care centers or school age child care programs for the provision of subsidized child care shall deduct from said monthly payments such a representation fees and transmit them to the secretary of the exclusive bargaining representative
- (e) The mediation and interest arbitration provisions of Chapter 150E shall apply. Nothing in this act grants providers the right to strike. This section applies only to the governance of the collective bargaining relationship between the employer as defined in this section, and providers of early education and care.

(f) This section does not create or modify:

(1) The parents' or legal guardians' right to choose and terminate the services of any family child care provider or early education and care center, facility or program that provides care for their child or children;

(2) The child care centers' right to choose, direct, and terminate the services of any child care worker that provides care in the center;

(3) The rights of employers and employees under the National Labor Relations Act, 29 U.S.C. §§ 151 et seq.

(4) The secretary of the executive office of health and human services' and the Commissioner's right to adopt requirements pursuant to chapter 15D except for requirements related to grievance procedures and collective negotiations on personnel matters as specified in this section;

(5) The General Court's right to make programmatic modifications to the delivery of Commonwealth services through child care subsidy programs, including standards of eligibility of parents, legal guardians, and child care centers participating in child care subsidy programs, and the nature of services provided.

(g) In enacting this section, the General Court intends to provide state action immunity under federal and state antitrust laws for the joint activities of family child care providers and those of child care workers and directors and their exclusive bargaining representatives to the extent such activities are authorized by this chapter.

GENERAL PROVISIONS

SECTION 4. If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the Commonwealth.

SECTION 5. This act may be known and cited as the Access to Quality Early Education and Care Workforce Act.

SECTION 6. Sections 1 through 6 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the Commonwealth and its existing public institutions, and take effect immediately.